

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JUAN F. SOLANO,	:	
Petitioner,	:	
v.	:	Case Nos. 3:11-cv-112, 3:08-cr-154-1
UNITED STATES OF AMERICA,	:	JUDGE WALTER H. RICE
Respondent.	:	

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DECISION AND ENTRY ADOPTING UNITED STATES CHIEF  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC.  
#155); SUSTAINING UNITED STATES' MOTION TO DISMISS (DOC.  
#116); OVERRULING PETITIONER'S MOTION TO VACATE, SET  
ASIDE OR CORRECT SENTENCE UNDER 28 U.S.C. § 2255 (DOC.  
#108) AND DISMISSING IT WITH PREJUDICE; JUDGMENT TO ENTER  
IN FAVOR OF RESPONDENT AND AGAINST PETITIONER; DENYING  
CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA*  
*PAUPERIS*; TERMINATION ENTRY

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Based on the reasoning and citations of authority set forth by Chief  
Magistrate Judge Sharon L. Ovington in her November 2, 2015, Report and  
Recommendations, Doc. #155, as well as on a thorough *de novo* review of this  
Court's file and the applicable law, the Court ADOPTS said judicial filing in its  
entirety. Although the parties were advised of their right to file Objections to the  
Report and Recommendations, and of the consequences of failing to do so, no  
Objections have been filed within the time allotted. The Court further notes that  
Petitioner is represented by counsel.

Petitioner's Motion to Vacate, Set Aside or Correct Sentence Under 28 U.S.C. § 2255, Doc. #108, is time-barred, and his ineffective assistance of counsel claim lacks merit. Accordingly, the Court SUSTAINS the United States' Motion to Dismiss, Doc. #116, OVERRULES Petitioner's Motion to Vacate, Set Aside or Correct Sentence Under 28 U.S.C. § 2255, Doc. #108, and DISMISSES Petitioner's motion WITH PREJUDICE.

Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be objectively frivolous, Petitioner is denied a certificate of appealability, and is denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: November 20, 2015

  
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WALTER H. RICE  
UNITED STATES DISTRICT JUDGE